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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,615	04/14/2004	Robert W. Paasch	7045-2	7875

7590 05/13/2005

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EXAMINER

MARMOR II, CHARLES ALAN

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/825,615

Applicant(s)

PAASCH ET AL.

Examiner

Charles A. Marmor, II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-11 and 14-20 is/are rejected.
- 7) ☒ Claim(s) 3,4,12 and 13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to because:
 - a. In Figure 3, the occurrence of reference character "14" at the upper right corner of the drawing apparently should read --15--.
 - b. The drawings fail to comply with 37 CFR 1.84(p)(5) because Figure 3 includes reference character "62" not mentioned in the description.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:

- a. At page 2, line 15, one of the two periods should be deleted.
- b. At page 3, line 3, "bowl 14" should read --bowl 15--.
- c. At page 3, line 4, "bowl 14" should read --bowl 15--.
- d. At page 5, line 21, "bowl 14" should read --bowl 15--.
- e. At page 6, line 3, "bowl 14" should read --bowl 15--.
- f. At page 6, line 23, "type" should read --types--.

Appropriate correction is required.

Claim Objections

3. Claim 1 is objected to because of the following informalities: at line 4, the claim should end with a period. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 1, 5-7, 10, 14-17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Bertelsen ('317). Bertelsen teaches a urine collection device. The device includes a support apparatus (15) for supporting the urine collection device on a toilet; an attachment section (12) for attaching to a sample holder; a sample holder (17); and a collection section (2) for receiving and directing urine into the sample holder. The attachment section includes an opening (8) in a front face that enables the sample holder to be positioned so that urine is further directed from the collection section into the sample holder. The collection section is an elongated channel that extends from a front face of the attachment section at an upwardly directed angle toward a top surface of the toilet (See Figures 1-3). The device is configured to sit on a toilet bowl and receive urine by funneling the received urine into a detachable sample cup (17). An overflow opening (18,8) that causes a portion of the urine in the sample cup to overflow into the toilet before the urine completely fills up the sample cup. Support arms (3) that sit on opposite sides of the toilet from the sample cup hold the sample cup in the toilet bowl above a toilet bowl water level. Regarding claims 7 and 10, the limitation "cap section" defines no specific structure; and as such, the attachment section (12) of Bertelsen may be considered a cap section since the claim language does not require that the cap section cover or close the open end of the cup. The cap section is capable of holding the sample cup at an angle. The collection section is capable of being arranged so that it extends slightly below a top end of the toilet and angles downward from a front end of the toilet towards a middle section of the toilet. The support apparatus sits on a top end of a toilet bowl and a toilet seat sits down on top of the support apparatus.

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6. Claims 1, 2, 7, 9-11 and 15-20 are rejected under 35 U.S.C. 102(e) as being anticipated by House ('754). House teaches a urine collection device. The device includes a support apparatus (52) for supporting the urine collection device on a toilet; an attachment section (64) for attaching to a sample holder; a sample holder (70); and a collection section (14) for receiving and directing urine into the sample holder. The urine collection device includes a flow divider (72) located in the collection section that separates a first portion of the urine away from the sample holder (70) and into the toilet through an overflow spout (42). The support apparatus (52) includes oppositely opposed arms that extend in opposite directions from the attachment section. Regarding claims 7 and 10, the limitation "cap section" defines no specific structure; and as such, the attachment section (64) of House may be considered a cap section since the claim language does not require that the cap section cover or close the open end of the cup. The collection section extends slightly below a top end of the toilet and includes walls (18) that angle downward from a front end of the toilet towards a middle section of the toilet. The support apparatus sits on a top end of a toilet bowl and a toilet seat sits down on top of the support apparatus (see Figure 2). The device funnels received urine into a detachable sample cup (70).

7. Claims 1, 6-10, 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Gordon ('762). Gordon teaches a collection device that is capable of collecting urine. The device includes a support apparatus (12) for supporting the collection device on a toilet; an attachment section (26) for attaching to a sample holder; a sample holder (14); and a collection section (20) that is capable of receiving and directing urine into the sample holder. The support apparatus (12) includes oppositely opposed arms that extend in opposite directions from the

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attachment section. The attachment section (26) forms a cap section that is threaded to screwingly engage the sample cup (14). The apparatus sits on a top end of a toilet bowl and is capable of funneling received urine into a detachable sample cup.

Allowable Subject Matter

8. Claims 3, 4, 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter:

No prior art of record teach or fairly suggest a urine collection device, as claimed by Applicant, where the flow divider or preflow divider includes a cavity or chamber in the collection section that collects the first portion of the urine and a hole at a bottom end of the cavity or chamber that directs the first portion of the urine into the toilet; or where the cap section includes a first opening for receiving the urine from the collection section and a second overflow opening that allows urine to overflow from the sample cup into the toilet.

Conclusion


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kroeger ('573), Venter et al. ('972) and Dale ('169) teach urine specimen collectors. Sapyta ('453) teaches a urine specimen cup holder. Stingley et al. ('698) teach a urine collection kit.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Marmor, II whose telephone number is (571) 272-4730. The examiner can normally be reached on M-TH (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Charles A. Marmor, II
Primary Examiner
Art Unit 3736

May 6, 2005